

The Office has also made an election of species requirement for the reasons set forth beginning at paragraph 4 of the outstanding Office Action. Specifically, the Office required an election of a single disclosed species of Formula I. Office Action at p. 3.

Applicants respectfully traverse the restriction and election of species requirements. However, to be fully responsive to these requirements, Applicants affirmatively elect, with traverse, to prosecute the subject matter of Group I, and, as for the election of species requirement, the compound of formula (I) in which $R_1 = C_8H_{17}-CH=CH-C_8H_{16}-$, $X = -NH-$, $R_2 = H$, $R_3 = -CH_3$ and $N=9.8$. Applicants direct the Office to Example 1, wherein Applicants' elected species is prepared.

Applicants request the Office to consider claims 1-3, 6-11, 14-20, and 24-30 as generic and embracing Applicants' elected species.

Applicants respectfully submit that the Office has not shown that there would be a serious burden to examine the claims of the present invention together. Applicants respectfully submit that a search of the subject matter of Group II, in addition to the elected subject matter of Group I, would not be seriously burdensome. In fact, Applicants submit that a search of the subject matter of Group II would seem to encompass the search of the subject matter of Group I, because all the claims recite, *inter alia*, at least one compound chosen from polyamino acid derivatives of formula (I) and salts thereof. Accordingly,

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Applicants respectfully submit that no serious burden seems to exist to examine the claims of Groups I and II together.

In addition, Applicants traverse the election of species requirement. The Office has required restriction within the independent claims defining Applicants' invention. Applicants have a statutory right under 35 U.S.C. § 112, second paragraph, to claim the subject matter they regard as their invention in the manner they choose. Accordingly, Applicants respectfully requests that the full scope of the claimed invention continue to be examined in this application without restriction or election requirement.

If, however, the Office chooses to maintain the election requirement, Applicants respectfully requests the Office, if the elected species is found allowable, to continue to examine the full scope of the subject matter to the extent necessary to determine the patentability thereof, that is, extending the search to a reasonable number of the non-elected species according to *M.P.E.P.* § 803.02 and 35 U.S.C. § 121.

In view of the foregoing remarks, Applicants respectfully submit that both the restriction and the election of species requirement are in error and request that the requirements be withdrawn.

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CONCLUSION

Applicants await examination on the merits.

The Office is invited to contact Matthew L. Whipple at (202) 408-4290 if there are any questions that can be resolved by a telephonic conference.


Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: _____


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